



United Nations calls on Australia to prohibit non-therapeutic sterilisation of girls with disabilities

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In January 2011, the Australian Government appeared before the United Nations Human Rights Council as part of the Universal Periodic Review (UPR) process. The UPR is a new process undertaken by the United Nations and involves the review of the human rights records of the 192 Member States once every four years. The UPR provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfil their human rights obligations. The ultimate aim of the Review is to improve the human rights situation in all countries and address human rights violations wherever they occur. To prepare for the Review of Australia, the Human Rights Council received short reports from the Australian Government, the Australian Human Rights Commission and from non-government organisations. WWDA developed a Submission to the Australian Government on priority human rights issues for women with disabilities to be included in the Australian Government's National Report for the UPR. WWDA also provided feedback on the Australian Government's Draft UPR National Report, and contributed detailed input to the Joint NGO Submission to the UPR of Australia, where WWDA's priority issues of sterilisation and violence were included in the final NGO Report (see: <http://www.hrlrc.org.au/files/Joint-NGO-Report-UPR-of-Australia-12-July-2010.pdf>).

The Australian Government appeared before the UN Human Rights Council in Geneva on 31 January 2011, represented at the review by Senator Kate Lundy, Peter Woolcott, Australia's Ambassador to the UN, as well as senior Australian Government officials. During the review, 50 countries raised concerns with Australia's human rights performance and made 145 recommendations to the Australian Government on how to improve its human rights performance. These recommendations have been endorsed by the UN Human Rights Council. The Australian Government has undertaken to give full and proper consideration to each of the recommendations made and is required to respond to the Human Rights Council by June 2011.

Recommendation 39 (put forward by Denmark, the United Kingdom, Belgium and Germany) specifically deals with the issue of sterilisation of girls and women with disabilities. It states:

Comply with the recommendations of the Committee on the Rights of the Child and the Committee on the Elimination of Discrimination against Women concerning the sterilization of

women and girls with disabilities (Denmark); Enact national legislation prohibiting the use of non-therapeutic sterilisation of children, regardless of whether they have a disability, and of adults with disability without their informed and free consent (United Kingdom); Repeal all legal provisions allowing sterilization of persons with disabilities without their consent and for non-therapeutic reasons (Belgium); Abolish non-therapeutic sterilization of women and girls with disabilities (Germany).

This Recommendation follows on from Recommendations made to Australia by the United Nations Committee on the Rights of the Child (CRC) in 2005 which stated in part: ‘the Committee encourages the State party to...[d] prohibit the sterilization of children, with or without disabilities...’. Most recently, in July 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) expressed its concern at the ongoing practice of non-therapeutic sterilizations of women and girls with disabilities in Australia, and recommended that the Australian Government ‘enact national legislation prohibiting, except where there is a serious threat to life or health, the use of sterilisation of girls, regardless of whether they have a disability, and of adult women with disabilities in the absence of their fully informed and free consent.’

In February 2011, the monitoring Committee for the UN Convention on the Rights of the Child (CRC), issued a detailed General Comment on *The right of the child to freedom from all forms of violence*. ‘General Comments’ provide an authoritative interpretation of the rights contained in the articles and provisions of the international human rights treaties. The main purpose of a General Comment is to promote implementation of the particular treaty and assist States parties in fulfilling their reporting obligations. CRC General Comment 13 *The right of the child to freedom from all forms of violence* was developed by the CRC Committee in response to the alarming extent and intensity of violence exerted on children. It was also developed to specify the measures on which State Parties are expected to give information in their implementation reports. CRC General Comment 13 identifies forced sterilisation of girls with disabilities as a form of violence and clearly articulates that **all** forms of violence against children are unacceptable and there are **no** exceptions. It states:

“All forms of physical or mental violence” does not leave room for any level of legalized violence against children. Frequency, severity of harm and intent to harm are not prerequisites for the definitions of violence. States Parties may refer to such factors in intervention strategies in order to allow proportional responses in the best interests of the child, but definitions must in no way erode the child’s absolute right to human dignity and physical and psychological integrity by describing some forms of violence as legally and/or socially acceptable.” (at para.16).

In the coming months, WWDA will be working with the Australian Human Rights Commission on pursuing WWDA's decade long campaign on sterilisation and reproductive rights of women and girls with disabilities, particularly our campaign to see the Australian Government develop national legislation prohibiting, except where there is a serious threat to life or health, the sterilisation of girls, regardless of whether they have a disability, and of adult women with disabilities in the absence of their fully informed and free consent.

For more information:

On the UPR of Australia: <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/AUSession10.aspx>

On the Convention on the Rights of the Child (CRC) General Comment 13:

<http://www2.ohchr.org/english/bodies/crc/comments.htm>